



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF ENVIRONMENTAL RESPONSE AND REMEDIATION

M/35/002 NRD

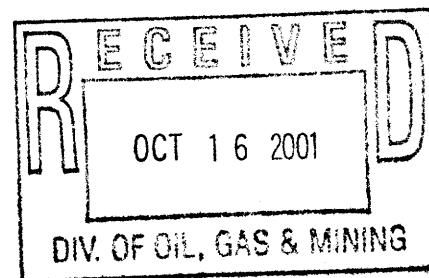
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ERRC-266-01

October 11, 2001

Mr. Jon Cherry
Kennecott Utah Copper Corporation
8315 West and 3595 South
P.O. Box 6001
Magna, Utah 84044-6001



RE: Response letters from Kennecott Utah Copper Corporation (KUCC) and the Jordan Valley Water Conservancy District (JVWCD) to the comments raised by the Utah Department of Environmental Quality (DEQ) and the Department of Natural Resources (UDNR) concerning the State of Utah Natural Resource Damage Proposal; dated August 3, 2001.

Dear Mr. Cherry:

The Utah Division of Environmental Response and Remediation (UDERR) has completed a review of the referenced response letters from KUCC and the JVWCD. Please find enclosed comments developed during our review of the referenced documents.

The following comments are raised to assist in clarifying some of the responses and the statements that were provided in the two letters. UDERR appreciates the opportunity to comment on the response letters. If you have any questions, feel free to contact me at (801) 536-4282.

Sincerely,

Douglas C. Bacon, Project Manager
Division of Environmental Response and Remediation

DCB/jdp

Enclosure(s)

cc: Dr. Eva Hoffman, U. S. Environmental Protection Agency Region VIII
Richard Bay, Jordan Valley Water Conservancy District
Jarred Manning, Utah Department of Natural Resources/Division of Water Rights
Tom Munson, Utah DNR/Division of Oil, Gas and Mining
Patti Pavey, M.S., Deputy Director, Salt Lake Valley Health Department

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UDERR Comments on the NRD Response Letters

From

**Kennecott Utah Copper Corporation, and
The Jordan Valley Water Conservancy District**

Specific Comments on the KUCC and JWCD Response Letters -

(1) Page 1, KUCC Response Comment #1: The following is suggested wording that could be included in the Recital Section of the three party agreement. "Pursuant to the Trustee's conceptual approval of the project proposal, the technical information requested previously and still not yet received has been deferred for resolution in the South Facilities Ground Water Remedial Design Work Plan. The resolution method for the technical information will be detailed in various sub work plans, which will be developed and provided to the Trustee for approval."

(2) Page 2, KUCC Response Comment #2: The proposed staged extraction plan for the removal of the acid core in Zone A should be explicitly detailed in the proposal. A table similar to Table 3-1 from the Remedial Design Work Plan (RDWP) would be helpful to present this approach to UDEQ and UDNR.

(3) Page 5, KUCC Response Comment #8: UDERR suggests that table 5.4A of the NRD proposal be updated. Table 5.4A needs to represent an accurate summation of the "Feed Water" for both zones and accounting of the sources so UDERR may appropriately evaluate the proposed pump rates against the NRD rebate criteria.

(4) Page 5, KUCC Response Comment #9 and Page 13, Response Comment #25: Citing the CERCLA Section 121 (e) (1), KUCC states that a reclamation bond from the Division of Oil, Gas, and Mining (DOGM) for the various Zone A facilities is unnecessary. Though UDERR does not disagree with the interpretation of the cited CERCLA section, UDERR does disagree with the statement made by KUCC that permits are not necessary. Under the 1995 Memorandum of Understanding, both UDEQ and EPA Region VIII intended that the long term maintenance and management of ongoing waste cleanup activities by KUCC would be subject to and comply with appropriate state permitting requirements. In lieu of listing the KUCC facilities on the NPL, the intention was for KUCC to be subject to normal state permitting authorities, including any requirements of DOGM.

(5) Pages 12 and 3, KUCC Response Comment #18 and JWCD Response Comment #18: UDERR recognizes the necessity of the seniority ranking for water rights. However, UDNR has the authority to approve or deny pump rates for this cleanup project. It would be beneficial for KUCC, the JWCD and UDNR to meet and discuss what specific assurances the Division of

Water Rights and State's Engineers Office will need from both KUCC and the JVWCD to make sure that third parties are appropriately compensated.

(6) Page 13, Response Comment #23: UDERR's original Comment No.#23 was in reference to the footnote in the State of Utah ARARs table listed in the Record of Decision for Zone A (Dec. 13, 2000). The footnote implies that at the time of the ROD signing, EPA was not prepared to determine if the treatment concentrates would be considered Bevill Exempt waste even after it traveled down the tailings line. The footnote also implies that due to the neutralization potential of the current ore tailings and under the mixture rule, the treatment concentrates could be classified as Bevill Exempt waste (pre-mine closure). When the ore tailings cease to be disposed of in the tailings line and the neutralization potential decreases, EPA and UDERR agree that the treatment concentrates will have to be characterized to determine the appropriate disposal options. In reference to the previous comment, UDERR intended to point out that certain RCRA disposal requirements may be relevant and appropriate, and KUCC will need to comply with those requirements.

In light of the recent findings concerning the cost difficulties with running the NF plant and the reduced neutralization potential of the ore tailings, UDERR believes it is important to determine if the proposed lime treatment facility and waste repository must meet special construction and permitting requirements listed under UAC R315.